

AMENDED IN ASSEMBLY MAY 2, 2016

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2625**

---

**Introduced by Assembly Member Lopez**

February 19, 2016

---

An act to amend Sections 17935, 17941, 17948, and 23153 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2625, as amended, Lopez. Corporation taxes: minimum franchise tax: annual tax: microbusiness.

Existing law imposes an annual minimum franchise tax, except as provided, on every corporation incorporated in this state, qualified to transact intrastate business in this state or doing business in this state. Existing law exempts a corporation that incorporates or qualifies to do business in this state from the payment of the minimum franchise tax in its first taxable year.

Existing law imposes an annual tax in an amount equal to the minimum franchise tax on every limited partnership, limited liability company, and limited liability partnership that is doing business in this state or that has filed or registered with the Secretary of State.

The minimum franchise tax imposed on a corporation, and the annual tax imposed on a limited liability company, must be paid by the 15th day of the 4th month of the taxable year. The annual tax imposed on a limited partnership or on a limited liability partnership, must be paid by the original due date of the partnership return.

This bill, for taxable years beginning on or after January 1, 2017, would reduce that minimum franchise tax to specified amounts, in the 2nd, 3rd, 4th, and 5th taxable years, for a corporation that is a new microbusiness, or that annual tax, for each of the first 5 taxable years of its existence, for a limited liability company, limited partnership, or limited liability partnership that is a new microbusiness, as defined.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 17935 of the Revenue and Taxation Code  
2     is amended to read:  
3     17935. (a) For each taxable year beginning on or after January  
4     1, 1997, every limited partnership doing business in this state, as  
5     defined by Section 23101, and required to file a return under  
6     Section 18633 shall pay annually to this state a tax for the privilege  
7     of doing business in this state in an amount equal to the applicable  
8     amount specified in paragraph (1) of subdivision (d) of Section  
9     23153.  
10    (b) (1) In addition to any limited partnership that is doing  
11    business in this state and therefore is subject to the tax imposed  
12    by subdivision (a), for each taxable year beginning on or after  
13    January 1, 1997, every limited partnership that has executed,  
14    acknowledged, and filed a certificate of limited partnership with  
15    the Secretary of State pursuant to Section 15621 or 15902.01 of  
16    the Corporations Code, and every foreign limited partnership that  
17    has registered with the Secretary of State pursuant to Section 15692  
18    or 15909.01 of the Corporations Code, shall pay annually the tax  
19    prescribed in subdivision (a). The tax shall be paid for each taxable  
20    year, or part thereof, until a certificate of cancellation is filed on  
21    behalf of the limited partnership with the office of the Secretary  
22    of State pursuant to Section 15902.03 or 15909.07 of the  
23    Corporations Code.  
24    (2) If a taxpayer files a return with the Franchise Tax Board that  
25    is designated its final return, that board shall notify the taxpayer  
26    that the tax imposed by this chapter is due annually until a  
27    certificate of cancellation is filed with the Secretary of State

1 pursuant to Section 15902.03 or 15909.07 of the Corporations  
2 Code.

3 (c) The tax imposed by this chapter shall be due and payable  
4 on the date the return is required to be filed under former Section  
5 18432 or 18633.

6 (d) For purposes of this section, “limited partnership” means  
7 any partnership formed by two or more persons under the laws of  
8 this state or any other jurisdiction and having one or more general  
9 partners and one or more limited partners.

10 (e) Notwithstanding subdivision (b), any limited partnership  
11 that ceased doing business prior to January 1, 1997, filed a final  
12 return with the Franchise Tax Board for a taxable year ending  
13 before January 1, 1997, and filed a certificate of dissolution with  
14 the Secretary of State pursuant to Section 15623 of the  
15 Corporations Code prior to January 1, 1997, shall not be subject  
16 to the tax imposed by this chapter for any period following the  
17 date the certificate of dissolution was filed with the Secretary of  
18 State, but only if the limited partnership files a certificate of  
19 cancellation with the Secretary of State pursuant to Section 15623  
20 of the Corporations Code. In the case where a notice of proposed  
21 deficiency assessment of tax or a notice of tax due (whichever is  
22 applicable) is mailed after January 1, 2001, the first sentence of  
23 this subdivision shall not apply unless the certificate of cancellation  
24 is filed with the Secretary of State not later than 60 days after the  
25 date of the mailing of the notice.

26 (f) (1) Notwithstanding subdivision (a) or (b), for taxable years  
27 beginning on or after January 1, 2017, every limited partnership  
28 that is a new microbusiness shall, for each of the first five taxable  
29 years of its existence for which it qualifies as a new microbusiness,  
30 pay to the state an annual tax of:

31 (A) Two hundred dollars (\$200) for a new microbusiness that  
32 has gross receipts, less returns and allowances, derived from or  
33 attributable to this state for the taxable year of fifty thousand dollars  
34 (\$50,000) or less.

35 (B) Four hundred dollars (\$400) for a new microbusiness that  
36 has gross receipts, less returns and allowances, derived from or  
37 attributable to this state for the taxable year of one hundred  
38 thousand dollars (\$100,000) or less, but more than fifty thousand  
39 dollars (\$50,000).

1 (C) Six hundred dollars (\$600) for a new microbusiness that  
2 has gross receipts, less returns and allowances, derived from or  
3 attributable to this state for the taxable year of one hundred fifty  
4 thousand dollars (\$150,000) or less, but more than one hundred  
5 thousand dollars (\$100,000).

6 (2) For purposes of this subdivision, the following definitions  
7 shall apply:

8 (A) (i) “Gross receipts, less returns and allowances,” means  
9 the sum of the gross receipts from the production of business  
10 income, as defined in subdivision (a) of Section 25120, and the  
11 gross receipts from the production of nonbusiness income, as  
12 defined in subdivision (d) of Section 25120.

13 (ii) “Gross receipts, less returns and allowances, derived from  
14 or attributable to this state” shall be determined using the rules for  
15 assigning sales under Sections 25135 and 25136 and the regulations  
16 thereunder, as modified by the regulations under Section 25137,  
17 other than those provisions that exclude receipts from the sales  
18 factor.

19 (B) “New microbusiness” means a limited partnership that on  
20 or after January 1, 2017, is organized under the laws of this state  
21 or has qualified to transact intrastate business in this state and has  
22 first commenced doing business in this state on or after the time  
23 of its organization. In determining whether the taxpayer has first  
24 commenced doing business in this state during the taxable year,  
25 subdivision (f) of Section 17276, without application of paragraph  
26 (7) of that subdivision, shall apply, except that “new  
27 microbusiness” shall be substituted for “new business.”

28 (3) For purposes of this subdivision, the gross receipts derived  
29 from or attributable to the state of any other business, in whatever  
30 form conducted, that is owned, directly or indirectly, by persons,  
31 within the meaning of Section 17007, that are treated as related,  
32 within the meaning of Section 267, 318, or 707 of the Internal  
33 Revenue Code, to the new microbusiness, shall be aggregated with  
34 the gross receipts derived from or attributable to the state of the  
35 new microbusiness to determine whether the new microbusiness  
36 qualifies for the reduced annual tax under this subdivision.

37 SEC. 2. Section 17941 of the Revenue and Taxation Code is  
38 amended to read:

39 17941. (a) For each taxable year beginning on or after January  
40 1, 1997, a limited liability company doing business in this state,

1 as defined in Section 23101, shall pay annually to this state a tax  
2 for the privilege of doing business in this state in an amount equal  
3 to the applicable amount specified in paragraph (1) of subdivision  
4 (d) of Section 23153 for the taxable year.

5 (b) (1) In addition to any limited liability company that is doing  
6 business in this state and is therefore subject to the tax imposed  
7 by subdivision (a), for each taxable year beginning on or after  
8 January 1, 1997, a limited liability company shall pay annually  
9 the tax prescribed in subdivision (a) if articles of organization have  
10 been accepted, or a certificate of registration has been issued, by  
11 the office of the Secretary of State. The tax shall be paid for each  
12 taxable year, or part thereof, until a certificate of cancellation of  
13 registration or of articles of organization is filed on behalf of the  
14 limited liability company with the office of the Secretary of State.

15 (2) If a taxpayer files a return with the Franchise Tax Board that  
16 is designated as its final return, the Franchise Tax Board shall  
17 notify the taxpayer that the annual tax shall continue to be due  
18 annually until a certificate of dissolution is filed with the Secretary  
19 of State pursuant to Section 17707.08 of the Corporations Code  
20 or a certificate of cancellation is filed with the Secretary of State  
21 pursuant to Section 17708.06 of the Corporations Code.

22 (c) The tax assessed under this section shall be due and payable  
23 on or before the 15th day of the fourth month of the taxable year.

24 (d) For purposes of this section, "limited liability company"  
25 means an organization, other than a limited liability company that  
26 is exempt from the tax and fees imposed under this chapter  
27 pursuant to Section 23701h or 23701x, that is formed by one or  
28 more persons under the law of this state, any other country, or any  
29 other state, as a "limited liability company" and that is not taxable  
30 as a corporation for California tax purposes.

31 (e) Notwithstanding anything in this section to the contrary, if  
32 the office of the Secretary of State files a certificate of cancellation  
33 pursuant to Section 17707.02 of the Corporations Code for any  
34 limited liability company, then paragraph (1) of subdivision (f) of  
35 Section 23153 shall apply to that limited liability company as if  
36 the limited liability company were properly treated as a corporation  
37 for that limited purpose only, and paragraph (2) of subdivision (f)  
38 of Section 23153 shall not apply. Nothing in this subdivision  
39 entitles a limited liability company to receive a reimbursement for  
40 any annual taxes or fees already paid.

(f) (1) Notwithstanding any provision of this section to the contrary, a limited liability company that is a small business solely owned by a deployed member of the United States Armed Forces shall not be subject to the tax imposed under this section for any taxable year the owner is deployed and the limited liability company operates at a loss or ceases operation.

(2) The Franchise Tax Board may promulgate regulations as necessary or appropriate to carry out the purposes of this subdivision, including a definition for “ceases operation.”

(3) For the purposes of this subdivision, all of the following definitions apply:

(A) “Deployed” means being called to active duty or active service during a period when a Presidential Executive order specifies that the United States is engaged in combat or homeland defense. “Deployed” does not include either of the following:

- (i) Temporary duty for the sole purpose of training or processing.
- (ii) A permanent change of station.

(B) “Operates at a loss” means a limited liability company’s expenses exceed its receipts.

(C) “Small business” means a limited liability company with total income from all sources derived from, or attributable, to the state of two hundred fifty thousand dollars (\$250,000) or less.

(4) This subdivision shall become inoperative for taxable years beginning on or after January 1, 2018.

(g) (1) Notwithstanding subdivision ~~(a) or (b)~~, *(a), (b), or (f)*, for taxable years beginning on or after January 1, 2017, every limited liability company that is a new microbusiness shall, for each of the first five taxable years of its existence for which it qualifies as a new microbusiness, pay to the state an annual tax of:

(A) Two hundred dollars (\$200) for a new microbusiness that reasonably estimates it will have gross receipts, less returns and allowances, derived from or attributable to this state for the taxable year of fifty thousand dollars (\$50,000) or less.

(B) Four hundred dollars (\$400) for a new microbusiness that reasonably estimates it will have gross receipts, less returns and allowances, derived from or attributable to this state for the taxable year of one hundred thousand dollars (\$100,000) or less, but more than fifty thousand dollars (\$50,000).

1 (C) Six hundred dollars (\$600) for a new microbusiness that  
2 reasonably estimates it will have gross receipts, less returns and  
3 allowances, derived from or attributable to this state for the taxable  
4 year of one hundred fifty thousand dollars (\$150,000) or less, but  
5 more than one hundred thousand dollars (\$100,000).

6 (2) For purposes of this subdivision, the following definitions  
7 shall apply:

8 (A) (i) “Gross receipts, less returns and allowances” means the  
9 sum of the gross receipts from the production of business income,  
10 as defined in subdivision (a) of Section 25120, and the gross  
11 receipts from the production of nonbusiness income, as defined in  
12 subdivision (d) of Section 25120.

13 (ii) “Gross receipts, less returns and allowances, derived from  
14 or attributable to this state” shall be determined using the rules for  
15 assigning sales under Sections 25135 and 25136 and the regulations  
16 thereunder, as modified by the regulations under Section 25137,  
17 other than those provisions that exclude receipts from the sales  
18 factor.

19 (B) “New microbusiness” means a limited liability company  
20 that on or after January 1, 2017, is organized under the laws of  
21 this state or has qualified to transact intrastate business in this state  
22 and has first commenced doing business in this state on or after  
23 the time of its organization. In determining whether the taxpayer  
24 has first commenced doing business in this state during the taxable  
25 year, subdivision (f) of Section 17276, without application of  
26 paragraph (7) of that subdivision, shall apply, except that “new  
27 microbusiness” shall be substituted for “new business.”

28 (3) For purposes of this subdivision, the gross receipts derived  
29 from or attributable to the state of any other business, in whatever  
30 form conducted, that is owned, directly or indirectly, by persons,  
31 within the meaning of Section 17007, that are treated as related,  
32 within the meaning of Section 267, 318, or 707 of the Internal  
33 Revenue Code, to the new microbusiness, shall be aggregated with  
34 the gross receipts derived from or attributable to the state of the  
35 new microbusiness to determine whether the new microbusiness  
36 qualifies for the reduced annual tax under this subdivision.

37 (4) For any taxable year beginning on or after January 1, 2017,  
38 if a limited liability company has qualified to pay a reduced annual  
39 tax under this subdivision for any taxable year, but in that taxable  
40 year, the limited liability company’s gross receipts, less returns

1 and allowances, derived from or attributable to this state, exceed  
2 the amount specified for that reduced amount, an additional tax in  
3 an amount equal to six hundred dollars (\$600), four hundred dollars  
4 (\$400), or two hundred dollars (\$200), as applicable, for that  
5 taxable year shall be due and payable by the limited liability  
6 company on the due date of its return, without regard to extension,  
7 for that taxable year.

8 SEC. 3. Section 17948 of the Revenue and Taxation Code is  
9 amended to read:

10 17948. (a) For each taxable year beginning on or after January  
11 1, 1997, every limited liability partnership doing business in this  
12 state, as defined in Section 23101, and required to file a return  
13 under Section 18633 shall pay annually to the Franchise Tax Board  
14 a tax for the privilege of doing business in this state in an amount  
15 equal to the applicable amount specified in paragraph (1) of  
16 subdivision (d) of Section 23153 for the taxable year.

17 (b) In addition to any limited liability partnership that is doing  
18 business in this state and therefore is subject to the tax imposed  
19 by subdivision (a), for each taxable year beginning on or after  
20 January 1, 1997, every registered limited liability partnership that  
21 has registered with the Secretary of State pursuant to Section 16953  
22 of the Corporations Code and every foreign limited liability  
23 partnership that has registered with the Secretary of State pursuant  
24 to Section 16959 of the Corporations Code shall pay annually the  
25 tax prescribed in subdivision (a). The tax shall be paid for each  
26 taxable year, or part thereof, until any of the following occurs:

27 (1) A notice of cessation is filed with the Secretary of State  
28 pursuant to subdivision (b) of Section 16954 or 16960 of the  
29 Corporations Code.

30 (2) A foreign limited liability partnership withdraws its  
31 registration pursuant to subdivision (a) of Section 16960 of the  
32 Corporations Code.

33 (3) The registered limited liability partnership or foreign limited  
34 liability partnership has been dissolved and finally wound up.

35 (c) The tax assessed under this section shall be due and payable  
36 on the date the return is required to be filed under Section 18633.

37 (d) If a taxpayer files a return with the Franchise Tax Board that  
38 is designated as its final return, the Franchise Tax Board shall  
39 notify the taxpayer that the annual tax shall continue to be due  
40 annually until a certificate of cancellation is filed with the Secretary



1 of State pursuant to Section 16954 or 16960 of the Corporations  
2 Code.

3 (e) (1) Notwithstanding subdivision (a) or (b), for taxable years  
4 beginning on or after January 1, 2017, every limited liability  
5 partnership that is a new microbusiness shall, for each year of the  
6 first five taxable years of its existence for which it qualifies as a  
7 new microbusiness, pay annually to the state an annual tax of:

8 (A) Two hundred dollars (\$200) for a new microbusiness that  
9 has gross receipts, less returns and allowances, derived from or  
10 attributable to this state for the taxable year of fifty thousand dollars  
11 (\$50,000) or less.

12 (B) Four hundred dollars (\$400) for a new microbusiness that  
13 has gross receipts, less returns and allowances, derived from or  
14 attributable to this state for the taxable year of one hundred  
15 thousand dollars (\$100,000) or less, but more than fifty thousand  
16 dollars (\$50,000).

17 (C) Six hundred dollars (\$600) for a new microbusiness that  
18 has gross receipts, less returns and allowances, derived from or  
19 attributable to this state for the taxable year of one hundred fifty  
20 thousand dollars (\$150,000) or less, but more than one hundred  
21 thousand dollars (\$100,000).

22 (2) For purposes of this subdivision, the following definitions  
23 shall apply:

24 (A) (i) “Gross receipts, less returns and allowances,” means  
25 the sum of the gross receipts from the production of business  
26 income, as defined in subdivision (a) of Section 25120, and the  
27 gross receipts from the production of nonbusiness income, as  
28 defined in subdivision (d) of Section 25120.

29 (ii) “Gross receipts, less returns and allowances, derived from  
30 or attributable to this state” shall be determined using the rules for  
31 assigning sales under Sections 25135 and 25136 and the regulations  
32 thereunder, as modified by the regulations under Section 25137,  
33 other than those provisions that exclude receipts from the sales  
34 factor.

35 (B) “New microbusiness” means a limited liability partnership  
36 that on or after January 1, 2017, is organized under the laws of  
37 this state or has qualified to transact intrastate business in this state  
38 and has first commenced doing business in this state on or after  
39 the time of its organization. In determining whether the taxpayer  
40 has first commenced doing business in this state during the taxable

1 year, subdivision (f) of Section 17276, without application of  
2 paragraph (7) of that subdivision, shall apply, except that “new  
3 microbusiness” shall be substituted for “new business.”

4 (3) For purposes of this subdivision, the gross receipts derived  
5 from or attributable to the state of any other business, in whatever  
6 form conducted, that is owned, directly or indirectly, by persons,  
7 within the meaning of Section 17007, that are treated as related,  
8 within the meaning of Section 267, 318, or 707 of the Internal  
9 Revenue Code, to the new microbusiness, shall be aggregated with  
10 the gross receipts derived from or attributable to the state of the  
11 new microbusiness to determine whether the new microbusiness  
12 qualifies for the reduced annual tax under this subdivision.

13 SEC. 4. Section 23153 of the Revenue and Taxation Code is  
14 amended to read:

15 23153. (a) Every corporation described in subdivision (b) shall  
16 be subject to the minimum franchise tax specified in subdivision  
17 (d) from the earlier of the date of incorporation, qualification, or  
18 commencing to do business within this state, until the effective  
19 date of dissolution or withdrawal as provided in Section 23331 or,  
20 if later, the date the corporation ceases to do business within the  
21 limits of this state.

22 (b) Unless expressly exempted by this part or the California  
23 Constitution, subdivision (a) shall apply to each of the following:

24 (1) Every corporation that is incorporated under the laws of this  
25 state.

26 (2) Every corporation that is qualified to transact intrastate  
27 business in this state pursuant to Chapter 21 (commencing with  
28 Section 2100) of Division 1 of Title 1 of the Corporations Code.

29 (3) Every corporation that is doing business in this state.

30 (c) The following entities are not subject to the minimum  
31 franchise tax specified in this section:

32 (1) Credit unions.

33 (2) Nonprofit cooperative associations organized pursuant to  
34 Chapter 1 (commencing with Section 54001) of Division 20 of the  
35 Food and Agricultural Code that have been issued the certificate  
36 of the board of supervisors prepared pursuant to Section 54042 of  
37 the Food and Agricultural Code. The association shall be exempt  
38 from the minimum franchise tax for five consecutive taxable years,  
39 commencing with the first taxable year for which the certificate  
40 is issued pursuant to subdivision (b) of Section 54042 of the Food

1 and Agricultural Code. This paragraph only applies to nonprofit  
2 cooperative associations organized on or after January 1, 1994.

3 (d) (1) Except as provided in paragraph (2), paragraph (1) of  
4 subdivision (f) of Section 23151, paragraph (1) of subdivision (f)  
5 of Section 23181, and paragraph (1) of subdivision (c) of Section  
6 23183, corporations subject to the minimum franchise tax shall  
7 pay annually to the state a minimum franchise tax of eight hundred  
8 dollars (\$800).

9 (2) The minimum franchise tax shall be twenty-five dollars  
10 (\$25) for each of the following:

11 (A) A corporation formed under the laws of this state whose  
12 principal business when formed was gold mining, which is inactive  
13 and has not done business within the limits of the state since 1950.

14 (B) A corporation formed under the laws of this state whose  
15 principal business when formed was quicksilver mining, which is  
16 inactive and has not done business within the limits of the state  
17 since 1971, or has been inactive for a period of 24 consecutive  
18 months or more.

19 (3) For purposes of paragraph (2), a corporation shall not be  
20 considered to have done business if it engages in business other  
21 than mining.

22 (e) Notwithstanding subdivision (a), for taxable years beginning  
23 on or after January 1, 1999, and before January 1, 2000, every  
24 “qualified new corporation” shall pay annually to the state a  
25 minimum franchise tax of five hundred dollars (\$500) for the  
26 second taxable year. This subdivision shall apply to any corporation  
27 that is a qualified new corporation and is incorporated on or after  
28 January 1, 1999, and before January 1, 2000.

29 (1) The determination of the gross receipts of a corporation, for  
30 purposes of this subdivision, shall be made by including the gross  
31 receipts of each member of the commonly controlled group, as  
32 defined in Section 25105, of which the corporation is a member.

33 (2) “Gross receipts, less returns and allowances reportable to  
34 this state,” means the sum of the gross receipts from the production  
35 of business income, as defined in subdivision (a) of Section 25120,  
36 and the gross receipts from the production of nonbusiness income,  
37 as defined in subdivision (d) of Section 25120.

38 (3) “Qualified new corporation” means a corporation that is  
39 incorporated under the laws of this state or has qualified to transact  
40 intrastate business in this state, that begins business operations at

1 or after the time of its incorporation and that reasonably estimates  
2 that it will have gross receipts, less returns and allowances,  
3 reportable to this state for the taxable year of one million dollars  
4 (\$1,000,000) or less. “Qualified new corporation” does not include  
5 any corporation that began business operations as a sole  
6 proprietorship, a partnership, or any other form of business entity  
7 prior to its incorporation. This subdivision shall not apply to any  
8 corporation that reorganizes solely for the purpose of reducing its  
9 minimum franchise tax.

10 (4) This subdivision shall not apply to limited partnerships, as  
11 defined in Section 17935, limited liability companies, as defined  
12 in Section 17941, limited liability partnerships, as described in  
13 Section 17948, charitable corporations, as described in Section  
14 23703, regulated investment companies, as defined in Section 851  
15 of the Internal Revenue Code, real estate investment trusts, as  
16 defined in Section 856 of the Internal Revenue Code, real estate  
17 mortgage investment conduits, as defined in Section 860D of the  
18 Internal Revenue Code, qualified Subchapter S subsidiaries, as  
19 defined in Section 1361(b)(3)(B) of the Internal Revenue Code,  
20 or to the formation of any subsidiary corporation, to the extent  
21 applicable.

22 (5) For any taxable year beginning on or after January 1, 1999,  
23 and before January 1, 2000, if a corporation has qualified to pay  
24 five hundred dollars (\$500) for the second taxable year under this  
25 subdivision, but in its second taxable year, the corporation’s gross  
26 receipts, as determined under paragraphs (1) and (2), exceed one  
27 million dollars (\$1,000,000), an additional tax in the amount equal  
28 to three hundred dollars (\$300) for the second taxable year shall  
29 be due and payable by the corporation on the due date of its return,  
30 without regard to extension, for that year.

31 (f) (1) (A) Notwithstanding subdivision (a), every corporation  
32 that incorporates or qualifies to do business in this state on or after  
33 January 1, 2000, shall not be subject to the minimum franchise tax  
34 for its first taxable year.

35 (B) Notwithstanding subdivision (a), for taxable years beginning  
36 on or after January 1, 2017, every corporation that is a new  
37 microbusiness up to its first five taxable years shall annually pay  
38 to the state a minimum franchise tax in an amount specified in  
39 clause (i) for its second, third, fourth, and fifth taxable years, as

1 ~~long as it is a microbusiness in each year.~~ *years of its existence for*  
2 *which it qualifies as a new microbusiness.*

3 (i) (I) Two hundred dollars (\$200) for a new microbusiness  
4 that reasonably estimates that it will have gross receipts, less  
5 returns and allowances, derived from or attributable to this state  
6 for the taxable year of fifty thousand dollars (\$50,000) or less.

7 (II) Four hundred dollars (\$400) for a new microbusiness that  
8 reasonably estimates that it will have gross receipts, less returns  
9 and allowances, derived from or attributable to this state for the  
10 taxable year of one hundred thousand dollars (\$100,000) or less,  
11 but more than fifty thousand dollars (\$50,000).

12 (III) Six hundred dollars (\$600) for a new microbusiness that  
13 reasonably estimates that it will have gross receipts, less returns  
14 and allowances, derived from or attributable to this state for the  
15 taxable year of one hundred fifty thousand dollars (\$150,000) or  
16 less, but more than one hundred thousand dollars (\$100,000).

17 (ii) For purposes of this subparagraph, the following definitions  
18 shall apply:

19 (I) (ia) “Gross receipts, less returns and allowances,” means  
20 the sum of the gross receipts from the production of business  
21 income, as defined in subdivision (a) of Section 25120, and the  
22 gross receipts from the production of nonbusiness income, as  
23 defined in subdivision (d) of Section 25120.

24 (ib) “Gross receipts, less returns and allowances, derived from  
25 or attributable to this state” shall be determined using the rules for  
26 assigning sales under Sections 25135 and 25136 and the regulations  
27 thereunder, as modified by the regulations under Section 25137,  
28 other than those provisions that exclude receipts from the sales  
29 factor.

30 (II) “New microbusiness” means a limited liability company  
31 that on or after January 1, 2017, is organized under the laws of  
32 this state or has qualified to transact intrastate business in this state  
33 and has first commenced doing business in this state on or after  
34 the time of its organization. In determining whether the taxpayer  
35 has first commenced doing business in this state during the taxable  
36 year, subdivision (f) of Section 17276, without application of  
37 paragraph (7) of that subdivision, shall apply, except that “new  
38 microbusiness” shall be substituted for “new business.”

39 (iii) For purposes of this ~~subdivision,~~ *subparagraph*, the gross  
40 receipts derived from or attributable to the state of any other

business, in whatever form conducted, that is owned, directly or indirectly, by persons, within the meaning of Section 17007, that are treated as related, within the meaning of Section 267, 318, or 707 of the Internal Revenue Code, to the new microbusiness, shall be aggregated with the gross receipts derived from or attributable to the state of the new microbusiness to determine whether the new microbusiness qualifies for the reduced ~~annual tax under this subdivision~~ minimum franchise tax under this subparagraph.

(iv) For any taxable year beginning on or after January 1, 2017, if a corporation has qualified to pay a reduced minimum franchise tax under this subparagraph for any taxable year, but in that taxable year, the corporation's gross receipts, less returns and allowances, derived from or attributable to this state, exceed the amount specified for that reduced amount, an additional tax in an amount equal to six hundred dollars (\$600), four hundred dollars (\$400), or two hundred dollars (\$200), as applicable, for that taxable year shall be due and payable by the corporation on the due date of its return, without regard to extension, for that taxable year.

(2) Subparagraph (A) of paragraph (1) shall not apply to limited partnerships, as defined in Section 17935, limited liability companies, as defined in Section 17941, limited liability partnerships, as described in Section 17948, charitable corporations, as described in Section 23703, regulated investment companies, as defined in Section 851 of the Internal Revenue Code, real estate investment trusts, as defined in Section 856 of the Internal Revenue Code, real estate mortgage investment conduits, as defined in Section 860D of the Internal Revenue Code, and qualified Subchapter S subsidiaries, as defined in Section 1361(b)(3)(B) of the Internal Revenue Code, to the extent applicable.

(3) Subparagraph (A) of paragraph (1) shall not apply to any corporation that reorganizes solely for the purpose of avoiding payment of its minimum franchise tax.

(g) Notwithstanding subdivision (a), a domestic corporation, as defined in Section 167 of the Corporations Code, that files a certificate of dissolution in the office of the Secretary of State pursuant to subdivision (b) of Section 1905 of the Corporations Code, prior to its amendment by the act amending this subdivision, and that does not thereafter do business shall not be subject to the

1 minimum franchise tax for taxable years beginning on or after the  
2 date of that filing.

3 (h) The minimum franchise tax imposed by paragraph (1) of  
4 subdivision (d) shall not be increased by the Legislature by more  
5 than 10 percent during any calendar year.

6 (i) (1) Notwithstanding subdivision~~(a)~~, *(a) or (f)*, a corporation  
7 that is a small business solely owned by a deployed member of  
8 the United States Armed Forces shall not be subject to the  
9 minimum franchise tax for any taxable year the owner is deployed  
10 and the corporation operates at a loss or ceases operation.

11 (2) The Franchise Tax Board may promulgate regulations as  
12 necessary or appropriate to carry out the purposes of this  
13 subdivision, including a definition for “ceases operation.”

14 (3) For the purposes of this subdivision, all of the following  
15 definitions apply:

16 (A) “Deployed” means being called to active duty or active  
17 service during a period when a Presidential Executive order  
18 specifies that the United States is engaged in combat or homeland  
19 defense. “Deployed” does not include either of the following:

20 (i) Temporary duty for the sole purpose of training or processing.

21 (ii) A permanent change of station.

22 (B) “Operates at a loss” means negative net income as defined  
23 in Section 24341.

24 (C) “Small business” means a corporation with total income  
25 from all sources derived from, or attributable to, the state of two  
26 hundred fifty thousand dollars (\$250,000) or less.

27 (4) This subdivision shall become inoperative for taxable years  
28 beginning on or after January 1, 2018.

29 SEC. 5. This act provides for a tax levy within the meaning  
30 of Article IV of the Constitution and shall go into immediate effect.